

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
GREENEVILLE DIVISION**

**BEVILLE H. REAGAN, individually, and on
behalf of all others similarly situated,**)
Plaintiff,)
v.)
ARCELORMITTAL; ARCELORMITTAL USA,)
INC.; UNITED STATES STEEL)
CORPORATION; NUCOR CORPORATION;)
GERDAU AMERISTEEL US INC.; STEEL)
DYNAMICS, INC.; AK STEEL HOLDING)
CORPORATION; SSAB SWEDISH STEEL)
CORPORATION; COMMERCIAL METALS)
COMPANY,)
Defendants.)
)

Civil Action No. 2:11-cv-00035

**DEFENDANTS' MOTION FOR EXTENSION
OF TIME TO ANSWER OR OTHERWISE RESPOND TO
COMPLAINT UNTIL AFTER RESOLUTION OF VENUE
AND REMAND ISSUES, OR, IN THE ALTERNATIVE, FOR 30 DAYS**

Defendants ArcelorMittal USA LLC (formerly ArcelorMittal USA Inc.), United States Steel Corporation, Nucor Corporation, Gerdau Ameristeel US Inc., Steel Dynamics, Inc., AK Steel Holding Corporation, SSAB Swedish Steel Corporation, and Commercial Metals Company (collectively, “Defendants”), by their undersigned attorneys, respectfully move for an extension of time to file their answers or otherwise respond to Plaintiff’s Complaint. In support of this motion, Defendants state as follows.

1. Plaintiff originally filed this action in the Circuit Court for Cocke County, Tennessee on December 28, 2010. Plaintiff served ArcelorMittal USA LLC and Nucor Corporation on January 6, 2011; United States Steel Corporation, Gerdau Ameristeel US Inc.,

Steel Dynamics, Inc., AK Steel Holding Corporation, and Commercial Metals Company on January 7, 2011; and SSAB Swedish Steel Corporation on January 11, 2011.

2. On February 7, 2011, Defendants timely removed this action to this Court under the Class Action Fairness Act, 28 U.S.C. § 1332(d) (dkt. no. 1). Defendants also moved to transfer this action to the Northern District of Illinois, where there is pending a series of putative class actions making substantially identical allegations and including a proposed class that subsumes the class alleged in this case (dkt. no. 8).

3. Pursuant to Federal Rule of Civil Procedure 81(c)(2), without any extension Defendants' answers would be due seven days after the notice of removal was filed, i.e., due on February 14, 2011.

4. Defendants need additional time to prepare adequate answers or other responses to Plaintiff's Complaint.

5. Moreover, it would be most efficient to extend Defendants' deadline to answer or otherwise respond to Plaintiff's Complaint until after threshold issues concerning which Court will adjudicate this action are determined. As noted, Defendants have filed a motion to transfer venue. Also, Plaintiff's counsel has advised Defendants' counsel that he intends to file a motion to remand to state court. If this action will proceed in the Northern District of Illinois, it would make sense for answers to be filed in and any Rule 12 motions to be handled by that Court, which already has familiarity with the underlying allegations. Conversely, if this action will proceed in the Circuit Court for Cocke County, it makes sense for answers and any preliminary motions to be filed in that Court in the first instance.

6. This approach has been taken in similar situations in several other cases in this District. *See* Order dated Oct. 19, 2005 in *Temple v. Circuit City Stores, Inc.*, No. 2:05-CV-165

(Magistrate Judge Inman) (extending time to respond to complaint until 21 days after ruling on motion to transfer venue) (attached as Ex. A); Order dated January 5, 2010 in *Jabo's Pharmacy, Inc. v. Cephalon, Inc.*, No. 2:09-CV-289 (Judge Jordan) (extending time to respond to complaint until 30 days after ruling on motions to transfer venue and remand) (attached as Ex. B).

7. Defendants' counsel contacted Plaintiff's counsel to discuss this motion to request an extension, and counsel for Plaintiff stated that Plaintiff intends to file no documents in this matter, including a response to this motion for extension of time, other than a motion to remand because Plaintiff believes this Court has no jurisdiction to hear anything in this matter.

WHEREFORE, Defendants respectfully request that this Court enter an order extending their time to answer or otherwise respond to Plaintiff's Complaint until 30 days after Defendants' motion to transfer and any motion by Plaintiff for remand are decided, or, in the alternative, for an immediate extension of time until March 16, 2011.

Dated: February 10, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of February, 2011, a copy of the foregoing document was filed with the Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

/s/ Shayne R. Clinton
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